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**STAFF REVIEW AND RECOMMENDATION**

**Variance Case #:** V2014-17

**Legistar #:** 20140597

**Board of Zoning Appeals Hearing:** Monday, June 23, 2014 – 6:00 p.m.

**Property Owner:** J. Randy Carmichael  
% Carmichael Funeral Home  
1130 Whitlock Avenue  
Marietta, GA 30064

**Address:** 1130 Whitlock Avenue

**Land Lot:** 03250      **District:** 20      **Parcels:** 0100

**Council Ward:** 4C      **Existing Zoning:** OI (Office Institutional)

**Special Exception / Special Use / Variance(s) Requested:**

1. Variance to allow a curb cut for a commercial development along a residential street.  
[§ 716.02 (D)]

**Statement of Fact**

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

**Criteria:**

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

**PICTURES**



**View from New Haven Drive facing Whitlock Avenue**



**View from Whitlock Avenue**





**View from Whitlock Avenue**



**View on New Haven Drive with the existing curb cut**





**View from Whitlock Avenue at New Haven Drive**



**New Haven Drive**

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**Recommended Action:**

**Denial.** The applicant and property owner, J. Randy Carmichael, is requesting a variance to allow a curb cut for a commercial development on a residential street for the property located at 1130 Whitlock Avenue. The variance would allow for an additional ingress/egress on New Haven Drive, a residential street for the Whitlock Ridge Townhouse community and the New Haven Townhouse community. The subject property is 2.251 acres and is zoned OI (Office Institutional). The property to the east of this property is the Living Waters Ministry church that is zoned R-2 (Single-Family Residential); to the north is the New Haven Townhouse Community, zoned RM-12 (Multi-Family Residential); and to the west and northwest is the Whitlock Ridge Townhouse community zoned RA-8 (Single Family Residential – Attached). New Haven Drive provides access onto Whitlock Avenue for approximately 105 residential units.

Currently there is only one entry/exit on the entire property which is on Whitlock Avenue. As the applicant indicates, at the time of construction of the funeral home, the City had not begun to realize the growth and development of this area. As a result of the growth in this area over time, a median was placed on Whitlock Avenue due to the increase of traffic. Thus this has created a hardship for visitors, with increased traffic on New Haven Drive and difficulty for emergency responders (according to the applicant).

The applicant has cited several issues of concern regarding access to their property. Visitors to the site sometimes miss the only entrance and have to complete two U-turns to get back to the entrance which increases their chance of a car accident. Because of this, most visitors turn onto New Haven Drive which is an entry way to the residential neighborhood. That increases traffic within the neighborhood causing children to be at risk. Also, because this is the only entry/exit for the property, emergency vehicles, i.e. police, fire and EMS, sometimes have problems with access to the facility, which causes a public safety issue (according to the applicant).

The applicant's stated purpose for requesting additional ingress/ingress along New Haven Drive is to allow better circulation and improve public safety. However, the site plan submitted by the applicant appears to be in error. There is not enough depth of property between the Whitlock Avenue right of way and the building location to add another driveway as the site plan indicates. Because the property does not have the depth indicated on the site plan, the proposed driveway access actually is not in line with the interior driveway. If the driveway is to be moved to provide more direct access to the parking lot, the driveway will need to be moved further away from Whitlock Avenue to avoid conflict between cars turning right off of Whitlock Avenue onto New Haven Drive and cars turning left out of the proposed access drive. Due to the uncertainty of the driveway access and the potential for conflict between entering and exiting traffic, **staff recommends denial of this variance.**